

MEETING #5 February 4

At a Joint Meeting of the Madison County Board of Supervisors on
February 4, 2009 at 7:30 p.m. in the Madison County Administrative Center Auditorium:

PRESENT: Eddie Dean, Chairman, Eddie Dean
James L. Arrington, Vice-Chairman
William L. Crigler, Member
Bob Miller, Member
Clark Powers, Member
V. R. Shackelford, III, County Attorney
Lisa Robertson, County Administrator

Chairman, Eddie Dean called the meeting to order and stated that a
quorum was present.

Chairman, Eddie Dean then opened the Public Hearing to discuss the
following:

- 1) Ordinance to Amend Industrial Limited M-1 Zoning District to add Article 9-2-17
(automobile sales and rental)
- 2) Ordinance to Amend Residential Multiple Family, R-3 Zoning District (housing
for older persons)

V. R. Shackelford, III, County Attorney, was present and explained the
Ordinances for discussion at tonight's Public Hearing, and advised the first Ordinance to
amend regarding M-1 zoning will allow automobile sales and rentals and the second
Ordinance for discussion will allow changes in the R-3 zone to accommodate housing for
older persons.

V. R. Shackelford, III, County Attorney, advised that John J. "Butch"
Davies is present tonight on behalf of Carlyle Weaver, to present a proposal for
affordable senior housing to be situated along Courthouse Mountain Road behind the
Madison Plaza Shopping Center. The proposed amendments to the R-3 zone were
initiated by Mr. Davies on behalf of his client Carlyle Weaver. These changes will need
to be voted on before the County can proceed with the Weaver application.

V. R. Shackelford, III, County Attorney, suggested that emphasis be
placed on the latter part of the last amendment request that pertains to the definition of
"housing for older persons."

V. R. Shackelford, III, County Attorney, provided an overview of the proposal and the initial proffers that were previously approved for an active adult community; the new proffers were provided as amendments; however, from the standpoint of Madison County, it is deemed it would be best to utilize the category for such housing as would coincide with the statutes in the Virginia Code and in the regulations for state/federal grants for housing projects of this sort.

In closing, V. R. Shackelford, III, County Attorney, stated the first text amendment will define “housing for older person” as defined in the Virginia Code with the second text amendment denoting a change from thirteen (13) units to eight (8) (correction to the preamble to include what is included in the body of the Ordinance).

V. R. Shackelford, III, County Attorney, then explained the next amendment is to clarify density to be utilized in proposed projects; the applicant has proposed one (1) building that will have up to sixty (60) units in it; therefore, the applicant requested a text amendment in order to permit that type of building in an R-3 zone; he also explained there was clarification needed to allow maximum frontage length of the building that will be over two hundred feet (200’).

Additionally, V. R. Shackelford, III, County Attorney, also advised the text amendment will allow the aforementioned building as requested by Carlyle Weaver and it should be noted this request doesn’t change the setbacks or other requirements with regard as to where the building will be located on the lot. ‘

Lastly, V. R. Shackelford, III, County Attorney, advised the final amendment has to do with parking for a facility such as housing for older persons; the County’s current Ordinance requires there should be two (2) parking spaces allow for each unit in the building; however, this was discussed with several alternatives and it was suggested to have one (1) parking space for each bedroom in the facility, to which the applicant did agree to; therefore, that is what has been included (i.e. parking requirements will be based on the number of bedrooms that are in the units rather than the number of units).

In closing, V. R. Shackelford, III, County Attorney, advised there are four separate text amendments for the R-3 zone; these amendments have been advertised prior to tonight’s Joint Public Hearing.

V. R. Shackelford, III, County Attorney, provided an overview of the Ordinance pertaining to automobile sales & rental, pertaining to the application for Grand Champion Trailers; however, there is no pending application at the existing time.

In closing, V. R. Shackelford, III, County Attorney, stated there is a pending application pertaining to the request by Carlyle Weaver; therefore, if (and when) the amendment is adopted, the County can return to deal with the application.

Additionally, he stated the County tried to coordinate all amendments with regard to the time frame and hopes tonight's discussion has clarified any issues.

Rodney Lillard, Chairman of the Madison County Planning Commission, opened the floor for public comment.

Quayne Gennaro was present and stated she didn't hear any reference in the Ordinance that pertained to the height of the proposed building and asked if there was any change in the height.

V. R. Shackelford, III, County Attorney, advised there has been no change requested in tonight's Ordinance regarding the height regulations.

Mitch Goldberg was present and requested the developer provide the community a multi-perspective, three-dimensional rendering in scale of the proposed facility.

V. R. Shackelford, III, County Attorney, advised there will be an additional Public Hearing tonight regarding the aforementioned request.

Chairman, Eddie Dean opened the Board's session of the public hearing to hear the two recommendations from the Planning Commission on the proposed amendments to the M-1 zone and the R-3 zone.

Bob Miller commented on tonight's Ordinance indicating the maximum number of unit for multi-family housing is eight (8) with two –hundred (200') feet being the maximum length of the building – he then asked for an overview regarding the limitations regarding the County's original Ordinance and why it is felt the County should make changes with regard to meeting the proposal involved in one particular application.

V. R. Shackelford, III, County Attorney, stated the County has never been presented with a multi-family application or any other case in which a requested number of units and frontage was included in one package.

Bob Miller commented about Poplar Ridge Apartments that are situated in Madison County and asked whether this complex had specific features and asked for clarification as to what was deemed to be the best solution for Madison County to allow for a limit of eight (8) dwellings per building.

V. R. Shackelford, III, County Attorney, stated he believed the older structure had a limit of thirteen (13) and the amendment was proposed to reduce the size from thirteen (13) to eight (8) with no other changes being incorporated when that amendment was adopted.

Bob Miller verbalized concerns regarding sixty (60) units versus eight (8) and two hundred feet (200') versus some unknown applicant for which the applicant has applied for; the discussion surrounding two hundred (200') per building and not per acre.

V. R. Shackelford, III, County Attorney, stated the representatives of the authority for sixty-unit senior housing was prompted by the application; he also advised that based on discussion between the Madison County Planning Commission and the Madison County Board of Supervisors, it was felt that thirteen (13) units was too intense at that time.

David Jones of the Madison County Planning Commission, advised the changes were proposed to the County's Ordinance in an effort to differentiate a dwelling for the elderly from a regular apartment building; additional there were concerns over the density involved with thirteen (13) units per acre which was felt to be too much.

Bob Miller questioned that under the proposed amended Ordinance, elderly housing would be considered for those 55 years of age and older (i.e. state definition) and whether this would include working individuals in said age range (i.e. in the event one individual is 55 and the other is 45 or 35 years of age), and it is sufficient to provide only one parking space for two (2) working individuals that can share a one-bedroom apartment); however, if there are two (2) individuals, there will be more parking needed. In closing, he stated he has a problem offering affording housing for individuals who might both be fully employed outside the home and traveling daily from this facility

that is to be affordable housing for the elderly. Additionally, the County's Ordinance is being modified to fit an application for an R-3 zoning that appears to be a model for causing future problems in every R-3 zone in the County because it is being referred to as "housing for older persons." In closing, he stated there was some discussion between the Madison County Planning Commission and the Madison County Board of Supervisors regarding the frontage of the building and decreased unit size requirement although this has not yet been made clear and inquired whether the frontage of the building is being changed solely to accommodate the applicant's request.

V. R. Shackelford, III, County Attorney, advised that tonight's proposal is not about the limit of the building and that setbacks and open space requirements will still be in place; he also advised the shape of the property will influence the location and size of the proposed building.

Bob Miller asked if there was any discussion regarding the reasoning behind requirements for eight (8) units per building or having a two hundred foot (200') building frontage; he is concerned that these issues are being justified without any specifics being in place; he also verbalized concerns over the changes being proposed in order to be applicable to the entire R-3 zone in addition to reducing the parking spaces and making the units available to those 55 years and older of which would be occupying a one bedroom unit (with others under the age of 55).

James L. Arrington asked if there was any discussion to make this request to be for a special use permit for this application and not change the entire Ordinance.

V. R. Shackelford, III, County Attorney, stated the issues regarding density would apply whether or not a special use permit or "by right" use was requested.

James L. Arrington asked if the concerns verbalized tonight would still be an issue in the event a special use permit was sought.

Bob Miller stated the Board is being asked to change the County's Ordinance to apply to all R-3 zones from this day forth; therefore, the County will be incorporating a "by right" length of a building with sixty (60) units per building and one (1) parking space for all R-3 zones. Additionally, he feels the discussion is not based on the merits of the request but rather based on modification of the Ordinance for one (1)

particular applicant which isn't the way to effectively utilize land-use planning, which he feels is very unwise (i.e. unlimited building length and sixty (60) units in the building).

V. R. Shackelford, III, County Attorney, stated the County could include that in an R-3 zone, a multiple family dwelling be a use by special use permit rather than a by right use. The current R-3 ordinance allows multiple family dwelling (apartment) as a by right use.

There was extensive discussion about the issue as to what is currently in place and what is being proposed with regard to the undefined length of frontage and the change in the proposed number of units being allowed "by right" and that tonight's proposal does not involve a special use permit.

James L. Arrington suggested the Madison County Board of Supervisors allow a special exception for this particular application and move forward with the application as presented.

Chairman, Eddie Dean also suggested a clause be added for the "low income residents" as he feels this will determine the number of units that will be occupied.

Bob Miller stated based on conversations he has had with individuals it appears tonight's proposal isn't defined as "low income" but "affordable housing". In closing, he stated it appears this application is for "elderly housing" and not "low income housing."

William L. Crigler verbalized concerns regarding the difference between federal and state requirements for elderly housing and low income housing.

V. R. Shackelford, III, County Attorney, provided a brief overview of state and federal regulations pertaining to elderly housing; however, he also advised that regulations regarding low income housing pertain to special funded programs and is usually not determined by language in a Zoning Ordinance.

Lisa Robertson, County Administrator, advised that it has only been fairly recently that any localities have legally been approved to allow County Ordinances to contain any language that distinguishes between types of housing for an individual based on age, income or personal circumstances.

V. R. Shackelford, III, County Attorney, advised the definition of “older persons” is not a “narrow assumption” as most tend to think as many persons do not look at age 55 as “being old.”

In closing, V. R. Shackelford, III, County Attorney, advised the County felt that if this category was going to be created (i.e. “elderly”) it would be best to utilize the State’s definition rather than going another route. He also stated if a project is deemed to be worthwhile for the County, one might be hindering the project if change isn’t incorporated.

Bob Miller stated he feels the information pertaining to tonight’s request contains multipliers that exceed the County’s basic guidelines and he also doesn’t understand how the Madison County Planning Commission can recommend the request be approved; he also strongly feels the Zoning Ordinance for all R-3 zones in Madison County is being tailored with restrictions [(8) units versus (60) units; (1) parking space versus (2)] that are tailored for one specific application and without regard to the effects this will place (if approved) on the entire County of Madison and without any discussion as to why the choice has been made to reverse something that was done previously.

Chairman, Eddie Dean reiterated the aforementioned comment was on a personal note and not on behalf of the entire Madison County Board of Supervisors.

Chairman, Eddie Dean stated there are possibly some facets of misdirection that need to be looked at; however, he believes the concept has been well composed with valid support and feels this is the area that needs to be addressed.

In closing, Chairman, Eddie Dean stated that a solution needs to be made regarding this request and although there are concerns, perhaps this can be addressed (i.e. age of occupants residing with an “elderly tenant”); he also stated the concept behind the recommended eight (8) units was to keep from having several younger individuals residing in the facility that will have no recreation. Additionally, he stated he doesn’t feel the County can totally separate the concept, although he does feel that individuals should have the opportunity to enjoy a facility such as what is being proposed.

James L. Arrington stated he feels the County needs this type of project and he’d like to see the Madison County Board of Supervisors work to make this happen – if a special use permit could be required.

Chairman, Eddie Dean stated all five (5) Madison County Board of Supervisors are elected to represent the people of Madison County and each might have the same feelings; therefore, he suggested the Board consult Robert's Rules of Order and make a recommendation.

Chairman, Eddie Dean then suggested the discussion move onto the Amendment to add Article 9-2-17 that pertains to Automobile sales & rental.

Chairman, Eddie Dean opened the floor for questions from the Madison County Board of Supervisors and here were none.

ORDINANCE TO AMEND THE MADISON COUNTY ZONING ORDINANCE

WHEREAS, the Board of Supervisors of Madison County, Virginia, finds that the following amendment to the Zoning Ordinance of Madison County, Virginia, would promote the health, safety and general welfare of Madison County, Virginia, and be in accord with the declarations of legislative intent set forth in Virginia Code Section 15.2-2200 (1950, as amended) and the Madison County Comprehensive Plan adopted on December 14, 2006;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Madison County, Virginia, that the Zoning Ordinance of Madison County, Virginia, Article 9, Industrial Limited, M-1, be, and it hereby is, amended as follows:

1. Add Article 9-2-17
Automobile sales and rental.

The aforesaid amendment shall be effective upon enactment.

ENACTED this 4th day of February, 2009, on motion of Bob Miller, seconded by Clark Powers.

Eddie Dean, Chairman
Madison County Board of Supervisors

	Aye	Nay	Abstain	Absent
Eddie Dean	<u>x</u>	_____	_____	_____
James L. Arrington	<u>x</u>	_____	_____	_____
William L. Crigler	<u>x</u>	_____	_____	_____
Bob Miller	<u>x</u>	_____	_____	_____
Clark Powers	<u>x</u>	_____	_____	_____

Lisa A. Robertson
Madison County Administrator

Chairman, Eddie Dean recessed the meeting for five (5) minutes.

Chairman, Eddie Dean reconvened the meeting and discussions continued on the Amendments to the County's Zoning Ordinance pertaining to "housing for older persons."

William L. Crigler verbalized concerns regarding traffic and the number of apartment units being proposed for a seven (7) acre tract and the setback requirements.

V. R. Shackelford, III, County Attorney, clarified the acreage is 7.6 acres instead of just seven (7).

Bob Miller stated he has concerns regarding the decision of the previous Madison County Planning Commission and the prior Madison County Board of Supervisors to agree to thirteen (13) units) and the current Madison County Board of Supervisors is being asked to "throw out" the prior requirement in order to accept sixty (60) units per building the same density as earlier utilized for [8] units per building and there has been no discussion pertaining to this or why this change is necessary at the present time or the reasons behind the request.

Chairman, Eddie Dean stated when the previous guidelines were developed, there wasn't a tool in place to have elderly housing – this is something that has come about since that time.

V. R. Shackelford, III, County Attorney, also advised when a facility is being sought for construction as what is being proposed tonight, the economical thing to do is to put them close to one another – he doesn't feel the County could have a project that could be considered economically viable if it was restricted to (8) units per building in an R-3 zone; additionally, he feels if an R-3 zone is being used, this type of property has to have public water/sewer and if this type of zone is going to be utilized, there must be a contingent provision to make any project within that zone economically feasible. In closing, V. R. Shackelford, III, County Attorney, stated it isn't deemed to be economically feasible to construct a multi-family dwelling where there are only eight (8) units per building, which he feels the economics of building these units that utilize a lot of central features can be accommodated with more than eight (8) units per building. Additionally, he believes the restrictions of only having eight (8) units per building (realistically) will not be a viable option for any multi-family project in the County's existing R-3 zone.

Bob Miller asked Chris Miller of Aging Together if her research brought forth any evidence that most elderly housing was constructed with at least sixty (60) units per building or less.

Chris Miller advised the proposal is a bit different from what she has found and isn't the same as "HUD 202" housing but may be considered to be a tax credit project, as efficiency standards are viewed with a maximum amount of funds to be utilized for construction. In closing, she stated the more efficient the project will be, the better the financial source (i.e. tenant subsidized rental payments).

James L. Arrington asked Betty Grayson, Zoning Administrator, if she had any recommendations pertaining to tonight's request.

Betty Grayson, Zoning Administrator, advised that an impact analysis study hasn't been done; however, she advised the existing site is the only one available to accommodate the applicant's proposal unless funds are expended for water/sewer at another location.

Chairman, Eddie Dean then opened the floor for comments from the audience and asked that all statements pertain to this particular amendment to the Madison County Zoning Ordinance.

Chris Miller of Aging Together was present and clarified that an amendment to this particular Zoning Ordinance wouldn't apply to all R-3 zones but only to R-3 zones that apply to the definition included in the amendment for "housing for older persons." She also clarified the parking would not be assigned at the site per unit but is just utilized as a formula to establish the minimum number of parking spaces that could be allocated to the project as a whole and could be approved a bit higher. In closing, she also stated that it is important that when the Madison County Planning Commission opened the Public Hearing, no one in the audience took notice to the issue at that time.

Bill Campbell was present and complimented V. R. Shackelford, III, County Attorney, on the initial presentation; he also feels this amendment to the Zoning Ordinance only covers housing for the elderly (as the state defines) and that it does not effect all the R-3 zoning in the County; therefore, he feels this project will cover elderly persons and will be limited based on income. In closing, he agrees there is no other site in the County that can accommodate any low-cost housing.

Jean Kane was present and commented on the application and questions that were raised; she stated the County has been looking into housing for seniors for quite a while as well as the reality of having developments very similar to what is being proposed tonight. She also wanted to advise that most sites that she is familiar with (despite concerns verbalized by Bob Miller) the County will probably not have a mass of 55 year old with 35 year old spouses living in the facility - the typical age will probably be 70 and older with the vast majority of the citizens that no longer drive so the number of parking spaces being limited by the number of bedrooms should not be a consideration. Additionally, she stated the concerns about income should not be handled through the Zoning Ordinance.

Quayne Gennaro was present and commented that the Ordinance as presented tonight appears to be poorly written; she feels an alternative would be to create a zone called "R-4" that would deal specifically with elderly housing; she also advised the Ordinance should not only deal with the number of units per building but also the actual size of the building (i.e. limits on length & width of the building).

Pete Elliott advised that the Madison County Planning Commission did review these items at the Madison County Planning Commission's Workshop several times; therefore, tonight isn't the first time this issue has been discussed.

Pat Seeberger was present and stated that although it has been indicated tonight's application should be separated from the Zoning Ordinance, but since the citizens are very proud of the Route 29 Corridor, it is very hard to say adopt tonight's Ordinance without having any idea as to the impact of a housing project along the corridor and how this will effect the beauty of the road or the efficiency of this project.

Chairman, Eddie Dean then closed the floor for Public comment and returned to the Madison County Board of Supervisors.

James L. Arrington asked V. R. Shackelford, III, County Attorney, if tonight's concerns only apply to Article 7-3-3 for age restricted (housing for older persons), to which V. R. Shackelford, III, County Attorney, advised the exception only applies to the section on housing for older persons.

Bob Miller reiterated concerns about the difference in housing units as it pertains to age (i.e. 54 versus 55 years of age) and feels there has been no discussion as to why the proposal is being sought for sixty (60) units per building.

V. R. Shackelford, III, County Attorney, stated the dividing line of age 55 years is defined in the State Code; he also advised that any discussion of the suggestion for eight (8) units per building was not deemed to be an effective economically viable application.

Bob Miller questioned whether tonight's proposal is what is now considered to be viable in Madison County, to which V. R. Shackelford, III, County Attorney, the project must also be funded. Additionally, he questioned the height of the building, to which V. R. Shackelford, III, County Attorney, advised the building could be erected up to thirty-five feet (35') in height.

V. R. Shackelford, III, County Attorney, stated he feels when the applicant begins construction, all criteria will have to be provided and approved by Wes Smith, Building Official.

Bob Miller asked if it could be argued that fifty (50) units per building could be feasible, to which V. R. Shackelford, III, County Attorney, stated the applicant

who has made considerable effort to investigate the funding sources for this type of project; the applicant has come before the Madison County Planning Commission during numerous workshop sessions and no one else has come forward to show that what the applicant has promised isn't correct.

Chairman, Eddie Dean stated the Madison County Board of Supervisors has a recommendation from the Madison County Planning Commission and the Robert's Rules of Order requires the Madison County Board of Supervisors to either make a motion to either approve the amendments as provided.

After discussion, Bob Miller motioned regarding the Amendment to the Zoning Ordinance pertaining to Article 7-3-3 be denied, and there was no second.

MOTION DIED FOR A LACK OF A SECOND

ORDINANCE TO AMEND THE MADISON COUNTY ZONING ORDINANCE

WHEREAS, the Board of Supervisors of Madison County, Virginia, finds that the following amendment to the Zoning Ordinance of Madison County, Virginia, would promote the health, safety and general welfare of Madison County, Virginia, and be in accord with the declarations of legislative intent set forth in Virginia Code Section 15.2-2200 (1950, as amended) and the Madison County Comprehensive Plan adopted on December 14, 2006;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Madison County, Virginia, that the Zoning Ordinance of Madison County, Virginia, Article 7, Residential Multiple Family, R-3, Article 14-9-5, Minimum Off-Street Parking in all residential districts, and Article 20, Definitions, be, and it hereby is, amended as follows:

1. Amend Article 7, Residential Multiple family, R-3, first sentence, to read:

This district is established to provide a mixture of multi-family dwellings, such as apartments, at a density not to exceed eight (8) dwelling units per acre.

2. Amend Article 7-3-3, Maximum Building Grouping to read:

Maximum Building Grouping - Not more than eight (8) townhouses or attached dwelling units; shall be included in any one grouping, and no more than eight (8) dwelling units shall be included within any multiple-family dwelling, except housing for older persons not exceeding sixty (60) dwelling units may be included within a multiple-family dwelling. The maximum frontal length of any building or structure in this zone shall not exceed two hundred (200) feet, except such maximum frontal length shall not apply to a multiple-family dwelling used as housing for older persons not exceeding sixty (60) dwelling units.

3. Amend Article 14-9-5, Minimum Off-Street Parking, to read:

Minimum Off-Street Parking

In all residential districts there shall be provided in a private garage or on the lot; space for the parking of two (2) automobiles for each family dwelling unit in a new building, or each family dwelling unit added in the case of the enlargement of an existing building, except a multiple-family dwelling used as housing for older persons shall have space for the parking of one (1) automobile for each bedroom located therein.

4. Add Article 20-101A to read:

Housing for older persons: Housing that is: (i) provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program; or (ii) intended for, and solely occupied by, persons sixty-two years of age or older; or (iii) intended for, and solely occupied by, at least one person fifty-five years of age or older per dwelling unit.

The aforesaid amendment shall be effective upon enactment.

ENACTED this 4th day of February, 2009, on motion of William L. Crigler, seconded by Clark Powers.

Eddie Dean, Chairman
Madison County Board of Supervisors

	Aye	Nay	Abstain	Absent
Eddie Dean	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
James L. Arrington	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
William L. Crigler	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Bob Miller	<u> </u>	<u> x </u>	<u> </u>	<u> </u>
Clark Powers	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

Lisa A. Robertson
Madison County Administrator

James L. Arrington advised that although he feels the questions imposed by Bob Miller were valid, he completely trusts the judgment of David C. Jones of the Madison County Planning Commission.

Chairman, Eddie Dean then turned the meeting back over the Madison County Planning Commission to discuss the following case:

Case Number Z-12-08-59, which is a request by Carlyle L. Weaver to rezone 7.684 acres (two tracts of land, 18.049 acres total) from Conditional Residential, R-3 with proffers. The purpose of this rezoning is to revise the proffers to allow for development of a senior housing tax credit project in addition to an active adult community. This property is located off Route 29 Southbound Lane and route 660 near Madison. (This property was previously rezoned to Conditional Residential, R-3 with proffers attached on December 7, 2005). (Pending a public hearing by the Madison County Planning Commission and Madison County Board of Supervisors for amendments to the Madison County Zoning Ordinance which will also be heard on February 4, 2009, prior to this Agenda.

According to Betty Grayson, Zoning Administrator, new proffers were received on February 3, 2009; the Concept Plan A and B were mailed on January 30, 2009 and a new plat was received on January 30, 2009.

John J. "Butch" Davies was present to speak on behalf of the applicant and

stated that much time has been attributed in preparing the proffers that were submitted; the major concern for this request appears to be access to the property from Courthouse Mountain Road.

John J. “Butch” Davies stated the active adult community allowed for access to the community by way of Courthouse Mountain Road, pending requirements; although it is known the residents of Courthouse Mountain Road would like to avoid the aforementioned, but the application provided Option A & B concepts (which were submitted) with Option A showing access solely from the Madison Plaza route which is the preference of the applicant and would avoid an almost \$300,000.00 upgrade of Courthouse Mountain Road (Rt. 660); however, this option wasn’t readily approved by the Virginia Housing Development Authority – it was also suggested that should Option A be adopted, there would be preference denoted if this Option would be the most preferable. He also stated that Option B proposed for gated access to Courthouse Mountain Road and would be used only if the Virginia Housing Development Authority required such access from a state maintained road. In closing, he stated the applicant has a deeded right-of-way and access to the state maintained roadway through Madison Plaza Drive, and this is also the preference of the developer. He stated the applicant isn’t asking for unlimited access to Courthouse Mountain Road (gate has remained) which has also been addressed in the proffer. Additionally, he stated a definition has been inserted for “Housing for Older Persons” to ensure the language is denoted as indicated in the Virginia Code, and provided a commitment to restrictions as implied.

John J. “Butch” Davies also advised the applicant has tried to consolidate the proposed changes as denoted in the County’s Amended Zoning Ordinance to reflect parking for the facility; however, there is no designation for the twelve (12) visitor parking spaces for the housing for older persons. Additionally, he explained one of the reasons for the sixty (60) units in one building was incorporated because of being a “points issue” – the applicant must keep the cost down (facility will have one central laundry unit; central mail collection; one elevator) and the cost must be competitive with other projects of this type. He also advised that a landscaping lighting plan provision will be included into one location (denoted on page 3). Other concerns were discussed regarding height and mass language; therefore it was incorporated that nothing would be

higher than twenty-five feet (25') and lighting will be hooded and downward focused so as not to create a problem for the neighbors.

In closing, John J. "Butch" Davies stated the applicant has tried hard to address all concerns as raised by the citizens of Courthouse Mountain Road, and it is anticipated the applicant will do everything possible to avoid additional costs, keep all citizen concerns in mind, and nothing will be done in a more restrictive manner than what is presently in the proffer that was approved earlier (to include the gate). He thanked the Madison County Planning Commission for their time in considering this proposal, and he also thanked the citizens for expressing their concerns.

Concerns were verbalized by members of the Madison County Planning Commission as to which entrance will be utilized, to which John J. "Butch" Davies advised that plans were submitted in the Proffers and Concept Plans Option A & B; however, if the applicant uses Route 660 (Courthouse Mountain Road), there will be additional costs for renovations to the roadway along with various other improvements (i.e. shoulders, paving, etc.).

Nanette Crowdus was present on behalf of the citizens of Courthouse Mountain and she advised they are here to protest the use of Courthouse Mountain Road (Route 660) as the access to a proposed apartment building for older persons because Courthouse Mountain is a narrow, country road with less than two (2) lanes and treacherous contours; additionally, the residents living on the roadway are used to its shortcomings as they slow down for neighbors whether they're in vehicles or on foot because two vehicles moving in opposite directions on the road cannot adequately pass one another at a normal rate of speed without moving to the edge of the roadway on both sides. In closing, the residents feel that by increasing the usage by some sixty-percent (60%) would not only endanger the current residents but any additional residents, which is the main concern of the current residents (safety). There is no quarrel to provide affordable housing for older persons or anyone else; however, there are currently twenty-five (25) residences on Courthouse Mountain Road and seventy-five percent (75%) of the existing occupants are fifty-five (55) years or older and most are older than that; this is a senior citizen community on the "mountain" and they are extremely aware of the need for care in using Courthouse Mountain Road. The road intersects the Main Street (Business

Route 29) and this intersection has been the scene of several accidents throughout the years and they feel that an increase in the number of cars utilizing the intersection would represent a danger to the drivers. Although there has been discussion to widen Courthouse Mountain Road and providing an acceleration lane for residents leaving the proposed development which will make things much safer; however, there has been no discussion regarding the lack of safety for the drivers turning onto Courthouse Mountain Road from main street (left angle turn). In closing, she verbalized concerns about the clearing of the roadway during last weeks winter storm and feels that because Madison Plaza was completely cleared the entire time, this would be the most logical entrance for the proposed building off Courthouse Mountain Road; therefore the residents of Courthouse Mountain Road respectfully request the members of the Madison County Board of Supervisors and the Madison County Planning Commission deny the proposal to use Courthouse Mountain Road as an access to the property under consideration so as not to create a danger to the current residents or anyone else. Additionally, the residents do not want construction vehicles tearing up the road and they care very much for the integrity of the existing senior community on the “mountain.”

Mitch Goldberg was present and requested the developer provide the following to the community and Madison County Board of Supervisors:

- 1) A multi-perspective, three dimensional rendering in-scale of the proposed facility, shown within the proposed environment; he doesn't feel the County should consider purchasing anything that has not been seen. Additionally, he feels that after all this time, how is it possible that such a model hasn't been provided, which would make the proposal much easier to discuss if there was an actual rendering;
- 2) To gather critical information, stats, history, resident feedback, quality of life reports, management feedback, etc, concerning/regarding the thirty (30) other existing facilities of said corporation. The citizens have consistently been told the other facilities are good; however, this isn't good enough and County residents should know what is being considered for purchase (routing procedure in any zoning process)'

- 3) The plans layout a parking lot and this should be closer to Route 29 to ensure traffic, noise and lighting is as far away from the established homes along Courthouse Mountain Road;
- 4) What is planned for the additional ten (10) acres and also for Courthouse Mountain Road.

In closing, he stated that Courthouse Mountain Road is a small, local road that the citizens share as the artery of the Courthouse Mountain Community – this road connects and defines the neighborhood community, physically and socially.

Mark Dawson was present and stated that as a taxpayer of Madison County, he feels that due to the recent economic times, he feels it's very brave of someone to come forward with tonight's proposal – this will help with the tax base and feels tonight's proposal is a great thing for Madison County.

Chris Miller of Aging Together was present and stated she is aware of the County's demographics and support for older citizens; she commented on the number of seniors in Madison County that have lived here for more than twenty-five (25) years and the proposed project will support many local citizens. She also commented that Aging Together tries to bring all parts of the County together in an effort to build a strong community for seniors as all citizens will be seniors eventually. She stated that Aging Together has consistently heard from the seniors of Madison County that they want to be able to grow older in the community in which they reside and love, and also, there is no "one phase" of aging; therefore, planning and solutions will be most complex and one can't expect for a single answer to provide one 'package' to address all the concerns of senior citizens. In closing, she verbalized appreciation that citizens of Courthouse Mountain Road attended an Aging Together meeting to learn more about this issue from all sides and discussed ways in which to arrive at a solution that would be beneficial to all. Additionally, she hopes the Board will look at senior housing and how it will fit into the community of Madison County and assess what amount of effort will be needed in creating solutions and not continue to cause barriers.

Bill Campbell was present and stated that he was in favor of tonight's proposed project; he stated the roadway that is being discussed is a restricted roadway in that it's a private roadway and the citizens that reside on Route 660 are (in fact)

maintaining the roadway for the County; he also stated he feels the project will produce and additional \$30,000.00 in revenue and will rise to about \$45,000.000 to \$50,000.00 in revenue that is desperately needed in order to balance the County's budget. In closing, he feels that because of the increase in property value (as a result of reassessments), the senior citizens will more than likely be forced to look into affordable housing and tonight's proposal seems to be a most viable option.

Nan Coppedge (Director of Social Services) was present and hopes that everyone understands that tonight's project has been referred to (in the newspapers) as "low income housing" and there is a difference in that than "elderly housing" and she also proceeded to give an overview regarding grants that are awarded based on median income levels and about the "federal poverty level" that Social Services utilizes to declare low income housing. In closing, she stated there is still a need in Madison County for rental housing for all age levels; she also advised that other facilities she has visited did have a washer/dryer in each unit which is extremely helpful for older citizens as they do not have to leave their residence to do laundry – she asked if there was any way this convenience could be incorporated into tonight's proposal.

Kim Frye-Smith of Skyline Community Action Program was present and advised the agency is geared to assist those designated as "low income families" with housing (section 8 housing program); however, she stated there has been an increase in seniors coming to the office seeking tax relief (personal property & real estate) and other areas in which Skyline CAP is unable to assist them with. In closing, she advised that tonight's proposal is encouraging as the Skyline CAP would be in full support as this will be an initial step in bettering things for the seniors of Madison County; the Board is trying to work through the social issues and she expressed appreciation to both Boards for their efforts to assist the seniors of Madison County.

Bud Kreh verbalized concerns about comments made by Aging Together.

Chris Miller returned and provided further details about Aging Together and stated the organization is not commenting on the project, but she is simply offering feedback of issues that are knowledgeable to the organization regarding senior housing.

John J. “Butch” Davies returned and asked that Concept Plan Option A & B be forwarded to the Virginia Housing Development Authority and request that Concept Plan Option A be the preferable option.

Jacki Eisenberg of the Madison County Planning Commission verbalized concerns about the proposed parking lot for the facility.

Carlyle Weaver was present and stated that assurances could be given with the exception of the entrance to the north side of the ravine (small section that borders the Verizon office) and that piece of the property will need to be serviced by Rt. 660; otherwise, the rest of the property will be served through Madison Plaza, which will be considered very low impact.

Chairman, Eddie Dean reconvened the Madison County Board of Supervisors to make a determination on the following case:

Case Number Z-12-08-59, which is a request by Carlyle L. Weaver to rezone 7.684 acres (two tracts of land, 18.049 acres total) from Conditional Residential, R-3 with proffers. The purpose of this rezoning is to revise the proffers to allow for development of a senior housing tax credit project in addition to an active adult community. This property is located off Route 29 Southbound Lane and route 660 near Madison. (This property was previously rezoned to Conditional Residential, R-3 with proffers attached on December 7, 2005). (Pending a public hearing by the Madison County Planning Commission and Madison County Board of Supervisors for amendments to the Madison County Zoning Ordinance which will also be heard on February 4, 2009, prior to this Agenda.)

John J. “Butch” Davies was present on behalf of the applicant and advised there was no additional information to be added regarding tonight’s case.

James L. Arrington asked if the Madison County Board of Supervisors were to accept the recommendation as presented by the Madison County Planning Commission, with the preference for Option A, and this “option” is accepted by the funding source (Virginia Housing Development Authority), would an entrance gate still be erected on Courthouse Mountain Road.

John J. “Butch” Davies advised that a gate would not be erected; he also added that if the entrance was required to be on Courthouse Mountain Road, there would

also be a \$300,000.00 road improvement project to be undertaken; Option A would greatly increase the points for tonight's request; the applicant is hoping there will be no request to commit to such road improvements (i.e. money savings) and would also be more appealing to the citizens of Courthouse Mountain Road.

Bob Miller asked Nan Coppedge about the facility in Berryville, Virginia, and also asked about the number of occupants the facility actually has, to which she advised that she was unsure. He also commented on statements made regarding unfilled parking spaces at the facility in Berryville or how many parking spaces were required by the Zoning Ordinance in Berryville, Virginia; he questioned whether the unfilled parking spaces were actually based on the occupancy level or what guidelines were actually in place.

Chairman, Eddie Dean stated it appears that all present are hopeful that Concept Plan Option A is the choice, as requested by the applicant; however, although there are some proffers that stipulate Option B would include the applicant having to pay for road improvements on Courthouse Mountain Road; however, if everything is accessed through Madison Plaza, he asked if the property owner would be willing to agree to make the land available for future road improvements should someone else agree to be obligated for funding.

Additionally, Chairman, Eddie Dean stated that Courthouse Mountain Road is narrow and if an agreement were in place of the aforementioned magnitude, he feels this will be a way to resolve future concerns.

John J. "Butch" Davies advised the applicant, Carlyle Weaver, has agreed to the statement; additionally, the applicant has already agreed to the same type of agreement with regard to Route 29 as requested by the Virginia Department of Transportation.

In closing, Chairman, Eddie Dean advised with the existing problems with a shortfall in transportation funds, he doesn't feel there will be funding anytime soon to perform any roadway improvements, as verbalized regarding the Six Year Road Improvement Plan.

V. R. Shackelford, III, County Attorney, suggested the proposed request for the applicant to agree to his willingness to make the land available for future road

improvements (in the event access is granted through Madison Plaza) should someone else agree to be obligated for funding, be included as a condition to this particular case.

V. R. Shackelford, III, County Attorney, also suggested the comment be put into writing as a part of the proffer, to which Chairman, Eddie Dean indicated the Board feels very confident the applicant will follow through with the request as indicated at tonight's meeting. Mr. Shackelford also stated it could be part of the site plan process when that is filed with the County for approval.

Bob Miller commented on the recommendation from the Madison County Planning Commission that includes reference to Concept Plan Option B; he advised the concept doesn't allow access through Madison Plaza but only through Courthouse Mountain Road, to which Chairman, Eddie Dean suggested be denoted in the motion that will follow shortly.

Chairman, Eddie Dean advised the discussion denoted that Concept Plan Option B also include Concept Plan Option A. Dave Lewis, surveyor, was present and made a change to Concept Plan B at Mr. Dean's request and Mr. Carlyle Weaver was in agreement with this change to the plan and signed off on the change.

Bob Miller verbalized concerns with regard to the original proposal for a gate off of Courthouse Mountain Road; he stated that he spoke with Madison County Emergency Medical Services staff, who advised they would have no difficulty in utilizing a "break away gate" onto Courthouse Mountain Road in order to provide emergency services; with regard to the position that is being proposed (Option A) he feels the only entrance (if required) on Courthouse Mountain Road should be with a "break away gate" in order to allow emergency medical services personnel to enter without any problems.

After discussion, on motion of James L. Arrington, seconded by Clark Powers, as recommended by the Madison County Planning Commission to approve the revised Conditional rezoning to Conditional Residential, R-3 with proffers attached for an Active Adult Community/Housing for Older Persons with housing for older persons Concept Plan A or Concept Plan B with the preference being to use Concept Plan A which uses Madison Plaza Road as access. The Active Adult Community Concept Plan is dated August 18, 2005 and is attached to Case Number Z-09-05-73, with the following vote recorded:

Eddie Dean	Aye
James L. Arrington	Aye
William L. Crigler	Aye
Bob Miller	Nay
Clark Powers	Aye

In closing, Chairman, Eddie Dean advised the Board is very reluctant in approving this case with the provision for Concept Plan Option B.

Chairman, Eddie Dean then called a recess for the Madison County Board of Supervisors.

Rodney Lillard, Chairman of the Madison County Planning Commission, reconvened the meeting process, and proceeded with the Public Hearing to discuss the Ordinance to Establish Regulations for the Siting of Wireless Communications and Related Facilities in Madison County, Virginia.

Lisa Robertson, County Administrator, stated the Ordinance to be discussed for approval has been a work in progress for several months; due to the recent rash of applications, it has been deemed necessary to update the County's Ordinance revisions pertaining to these types of facilities (telecommunications). Therefore, a committee was appointed consisting of the following Madison County Planning Commission members:

David Jones
Jacki Eisenberg
Ray Goodall

Additionally, Lisa Robertson, County Administrator, stated the "Committee" has spent a lot of time looking at different alternatives, Ordinances, conversing with providers, and debating different approaches that could be taken in an effort to compile a suitable Ordinance.

In closing, Lisa Robertson, County Administrator, feels the Ordinance will more than likely continue to be a "work in progress" as rarely is something this complicated 100% accurate at the first; however, she feels the County has made a very good start as this Ordinance modifies many aspects that have currently been done by way of a special use permit. This Ordinance will allow potential providers who are looking to provide service to the County with a means of seeing what provisions they will need to follow.

Lisa Robertson, County Administrator, advised that tonight's Ordinance is mainly modeled (in form and substance) after Louisa County's Ordinance; provisions of several surrounding Counties (Culpeper, Albemarle) were also discussed.

In terms of overall approach, she feels this Ordinance proposes to allow for a number of uses that will be permitted "by right" in every zoning district with these allowances being listed on the second page of the document; in summary they allow for facilities that will be lower in height (free standing facility 100' or less in height) assuming that certain regulations are met. She advised that a concealed facility would be permitted by right (towers that look like silos); attached facilities will also be allowed 'by right' (supported by a structure that already exists [i.e. antenna on existing silo or building]); the document also includes a concept called "mitigation of an existing facility" which refers to a process where if an existing tower that doesn't meet current regulations (i.e. too tall, too short) but can serve a larger area and reduce the need for a number of others towers if additional height is allowed.

Additional comments included the concept of allow co-locations "by right" (i.e. adding an antenna onto an existing tower) and will no longer require an existing provider to apply for a special use permit in addition to the special use permit that was originally attained for the original tower.

In closing, Lisa Robertson, County Administrator, advised that all of the 'by right' uses are subject to compliance with the requirements as denoted later in the Ordinance that lists a number of different standards/requirements for the facility (i.e. height, appearance, type of support structure, lighting requirements, setback requirements, standards for equipment cabinets and compounds, permitting signage, abandonment of the facility). If all standards as denoted in the Ordinance are met, Betty Grayson, Zoning Administrator, will have the ability to approve requests by way of a zoning permit, and the process will move forward from there. It is felt that by having a number of provisions "by right" will be less intrusive and also a way to attain some balance between trying to encourage coverage in a wider area throughout Madison County and also provide allowances that taller communications towers (by use of a special use permit) be tailored to the needs of a specific site.

David Jones of the Madison County Planning Commission thanked the Committee members and Lisa Robertson, County Administrator, for their patience in working through this issue.

Lisa Robertson, County Administrator, also advised the next time the Madison County Planning Commission undertakes review of the Comprehensive Plan for Madison County, the idea of trying to encourage greater coverage throughout Madison County is one that may not be attained until the County has more discussion of the “bigger picture” as to where the County would like to see things focused for the future and determine what types of facilities (and where) said facilities need to be situated.

Chairman, Eddie Dean reconvened the Madison County Board of Supervisors.

Chairman, Eddie Dean thanked the Madison County Planning Commission members for their hard work on the aforementioned Ordinance.

Bob Miller stated the Ordinance doesn’t appear to denote that the Zoning Administrator can approve an application based on a statement from the applicant indicating they are going to build a “particular item” and what would take place should the applicant build something entirely different than what is required. Additionally, he stated the proposed Ordinance doesn’t allow any provisions for a bond and wonders whether this should be included to ensure the applicant builds what is required.

Lisa Robertson, County Administrator, advised this concern is something that can be considered; however, she feels because of the interaction between Zoning and the Building Department, the building permit will be issued to denote what type of structure is being permitted and also what will be enforced.

Betty Grayson, Zoning Administrator, stated that she and Wes Smith, Building Official, work very closely to ensure that proposed structures conform as agreed and denoted on the various permits.

V. R. Shackelford, III, County Attorney, also advised that unless all guidelines are in order, Wes Smith, Building Official, will not issue approval upon the final inspection.

Bob Miller questioned why a bond is required for Erosion & Sedimentation requests and why such a bond is not being required for tonight's proposed Ordinance.

V. R. Shackelford, III, County Attorney, explained the reasons as to why a bond is required for soil & erosion projects (i.e. insurance) and how this process ensures that work is performed in accordance with guidelines for soil/erosion concerns (i.e. flowing water onto the personal property of another, etc.).

Bob Miller explained an incident regarding a previous cell tower that was approved and later a light was installed; there was no enforcement on the part of the Zoning Administrator or the Madison County Board of Supervisors to require the applicant to remove the light until recently; he feels if a bond was in place, the County would've had the leverage to request no permits will be issued until the light is removed. Therefore, he feels the inclusion of a bond will allow the County more leverage in seeing that towers are constructed as required.

Betty Grayson, Zoning Administrator, commented on the wording that was included in the conditions on the tower on the Jim Carpenter property at Shelby. She stated the conditions stated "there will be no lights unless required by FAA". At that time, FAA required the light because of the closeness in proximity to the Charlottesville Airport.

Maynard Sipe was present to represent Verizon Wireless, Inc. and commented that he listened to many of the discussions presented by the Madison County Planning Commission regarding telecommunications and feels this particular Ordinance has received much attention to detail; he stated that many opportunities were offered to attain input and he feels the Ordinance is well rounded.

In regards to points made by Bob Miller, Mr. Sipe advised that typically, all bonds are required for public facilities (not private facilities); therefore, bonds applied for road improvements and soil/erosion improvements are done to ensure that a public facility is built in a manner that will protect the public; he also advised there have never been bonds in place for private building; instead, one relies on the certificate of occupancy and it is anticipated that Verizon Wireless, Inc. will be required to attain a final inspection or some type of certificate for use before the tower is utilized. He also

advised the company is willing to provide some type of certification from the engineer of post construction of the tower's actual height, if required, and believes the Zoning Administrator has the authority to require said certification be provided as a part of the final inspection.

James L. Arrington stated that he will remove himself from voting on this particular matter, as members of his family have an application pending that may be affected by his participation in the voting process.

**ORDINANCE
TO ESTABLISH REGULATIONS FOR THE SITING OF WIRELESS
COMMUNICATIONS AND RELATED FACILITIES IN MADISON COUNTY,
VIRGINIA**

WHEREAS, the Madison County Board of Supervisors and Planning Commission desire to enhance the ability of the citizens of Madison to have access to wireless broadband and other wireless communications facilities, while at the same time ensuring the orderly use and development of land within the County consistent with the goals and objectives of the County's Comprehensive Plan; and

WHEREAS, the Board of Supervisors finds and determines that the regulations set forth within this ordinance will serve the public necessity, convenience, general welfare and good zoning practice; and

WHEREAS, the Board of Supervisors, by adopting this ordinance, exercises the authority given by the Code of Virginia Title 15.2, Chapter 22, Article 7, §§15.2-2280 to 15.2-2316 to further the zoning purposes set forth in §15.2-2283, as may be applicable; the power given by Chapter 22, Article 3, §15.2-2224 to implement the County's comprehensive plan; and the general powers conferred by Chapter 12, Article 1, §15.2-1200 to secure and promote the health, safety and general welfare of the County's inhabitants;

NOW THEREFORE, be it ordained that of the Zoning Ordinance of Madison County, Virginia, is hereby amended to add Section 14-13, as follows:

14-13. Wireless Communications Facilities

14-13-1. Purpose and goals.

The purpose of this ordinance is to establish guidelines for the siting of wireless communications facilities (WCF). The goals of this ordinance are to:

- (A) minimize the total number of freestanding antenna support structures throughout the County, by maximizing the use of existing support structures,
- (B) ~~promote~~ strongly encourage the joint use of new and existing WCF sites,
- (C) ~~promote~~ strongly encourage the owners and operators of WCFs to locate them, to the extent possible, in areas where the adverse impact on the County is minimal,

- (D) ~~Restrict~~ Limit the location of freestanding antenna support structures that detract from the natural beauty of the mountains in scenic qualities of Madison County,
- (E) encourage the owners and operators of WCFs to locate and configure them in a way that minimizes the adverse visual impact on the landscape and adjacent properties, and
- (F) enhance the ability of wireless communications providers to provide such services ~~to the community~~ efficiently and effectively to residents and visitors of Madison County.

14-13-2. Applicability.

(A) *Generally.* The requirements set forth in this ordinance shall govern the location of WCFs installed in any zoning district.

(B) *Amateur Radio; Receive-Only Antennas.* This ordinance shall not apply to any amateur radio antenna or support structure having a combined height of less than 200 feet, or any receive-only antenna and its support structure used for non-commercial purposes.

(C) *Emergency facilities.* This ordinance shall not apply to a temporary, commercial WCF, upon the declaration of a state of emergency by federal, state or County government, for the duration of the emergency and for a period of up to three months thereafter. Any such WCF must comply with all federal and state requirements.

(D) *Special events.* This ordinance shall not apply to a temporary, commercial WCF established for the purpose of providing coverage of a special event (such as news coverage or a sporting event), for the duration of the event and for a period of up to one week thereafter. Any such WCF must comply with all federal and state requirements.

14-13-3. Permitted Uses.

The following are deemed to be uses permitted by right in every zoning district, provided that they meet the requirements of Section 14-13-6:

- (A) Installation of a new freestanding WCF less than 100 feet or less in height;
- (B) Installation of a concealed WCF;
- (C) Installation of an attached WCF, including installation of a WCF on a telephone or electric utility company's existing utility pole or on an existing light stanchion, provided that the top of the attached WCF is no more than 20 feet above the building or structure to which it will be attached;
- (D) Mitigation of an existing WCF, except in circumstances where the mitigation of an existing un-illuminated WCF results in a WCF that is required to be illuminated;
- (E) An antenna co-located or combined on an existing support structure of any height, provided that: (i) the addition of said antenna adds no more than twenty (20) feet to the height of the existing support structure; (ii) the addition of the antenna does not require expansion of the footprint of the support structure or the associated equipment compound; and (iii) the equipment compound shall be brought into compliance with applicable landscaping requirements; and

- (F) Replacement of an antenna, antenna element, or support structure, where such device or structure will be replaced with another that is of identical or reduced size and weight, and has identical or reduced wind load properties.

14-13-4. Uses Requiring a Special Use Permit

Except as provided in Section 14-13-3, a WCF shall be allowed only by special use permit.

14-13-5. Alternatives hierarchy.

The following is a listing, in order of preference, of the types WCF facilities preferred by the County:

- (1) Attached WCFs
- (2) WCFs co-located or combined on an existing WCF
- (3) Mitigation of an existing WCF
- (4) Concealed freestanding WCF
- (5) Non-concealed WCF.

14-13-6. General Requirements.

The requirements set forth in this section shall apply with respect to the location of each WCF governed by this ordinance:

(A) Authorization and approvals required.

- (i) Any WCF permitted by right under this ordinance must be authorized pursuant to a written verification of the zoning administrator that the facility will meet all applicable requirements of this ordinance, and no building permit shall be issued for any WCF until this verification has been provided. Such verification shall be provided by the zoning administrator within a reasonable time after receipt of all required application materials, not to exceed 60 days. If the zoning administrator determines that a WCF fails to meet the requirements of this ordinance, then the zoning administrator shall provide written notice to the applicant, identifying which requirements are not satisfied, and shall give the applicant an opportunity to provide additional information demonstrating compliance. If such additional information is not provided within ten (10) days then the zoning administrator's determination of noncompliance shall become final. Appeals from a decision of the zoning administrator shall be to the Board.
- (ii) The approval of a WCF that is subject to the requirement of a special use permit shall be governed by the process set forth in section 14-3 of the zoning ordinance. Additionally:
 - a- In determining whether a WCF is in harmony with the surrounding area, and whether the WCF will have an adverse impact on adjacent properties, the County will consider the aesthetic impacts of the WCF in addition to other relevant factors.
 - b- The County may condition approval on changes in WCF height, design, style, buffers, or other features of the WCF, or on changes to the

surrounding area. Such changes need not result in performance identical to that of the original application.

- c- Factors relevant to consideration aesthetic effects include: protection of the view in sensitive or particularly scenic areas; protection of the view from unique natural features; scenic roadways and historic sites; the concentration of WCFs in the vicinity of the proposed WCF; and whether the height, design, placement or other characteristics of a proposed WCF could be modified to have a less intrusive visual impact.
- d- If the County determines that the proposed additional service, coverage or capacity to be achieved by a proposed new WCF can be achieved by use of one or more existing WCFs, it may disapprove the proposed WCF application.

(iii) Prior to issuance of a building permit, the following shall be provided to the building official with respect to any support structure ~~100 feet or more than 100 feet~~ in height:

- a- a structural analysis of the proposed support structure prepared by an engineer, indicating the proposed and future loading capacity of the antenna structure; and
- b- proof of compliance with Subpart C of Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace," or a certification that such regulations are not applicable.

(iv) The County reserves the right to require a supplemental review for any WCF, in order to determine whether the WCF meets the requirements of this ordinance, subject to the following:

- a- Due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the County may require the applicant to pay for a technical review by a third-party expert, the cost of which shall be borne by the applicant in addition to other applicable fees, not to exceed two-and-one-half times the amount of the applicable zoning application fee.
- b- Based on the results of the expert review, the County may require changes to the applicant's application or submissions.
- c- A supplemental review may address any or all of the following: (1) the accuracy and completeness of the application and accompanying information; (2) the applicability of analysis techniques and methodologies; (3) the validity of conclusions reached; (4) whether the proposed WCF complies with applicable approval criteria; (5) other analysis deemed by the County to be relevant to determining whether a proposed WCF complies with the requirements of this ordinance.

(v) Whenever a third party desires to co-locate on any support structure approved under this section, the support structure owner shall notify the zoning administrator, in writing, of the proposed co-location and of the proposed antenna mounting height on the support structure. The County shall have a right of first refusal to lease the co-location space, rent free, for emergency communications purposes, provided adequate space and structural capacity exists for the County's proposed use. The County must exercise this right by written notice within 30 days of receiving notice of the proposed co-location.

- (B) *Visibility.* Each WCF and related buildings, structures and equipment shall be configured and located in a manner that shall minimize adverse visual impacts on the landscape and adjacent properties.
- (i) Each WCF shall be designed to be compatible with the height, scale, color and texture of existing structures and landscapes, as applicable.
 - (ii) Each new antenna shall be flush-mounted, unless it is demonstrated through radio frequency propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.
 - (iii) An attached WCF shall be designed to complement the façade, roof, wall or other portion of the building structure to which it is affixed, so it blends with the existing design, color and texture of the structure.
- (C) *Height.* Each WCF shall be of the least height necessary to meet the needs of the geographic area to be served by the facility, not to exceed 199 feet, except that in R-1, R-2 and R-3 zoning districts the maximum height of a WCF shall be 125 feet. Height calculations shall include above-ground foundations, but shall exclude lightening rods and lights required by the FAA which do not provide any support for antennas. In the event an applicant provides indisputable technical data demonstrating that a WCF service area would be so substantially compromised that there would be a requirement of additional WCFs within a distance of 2 miles, then the County may approve additional height. Each WCF that exceeds 199 feet in height shall be subject to a requirement that the WCF shall be designed to allow for a future reduction of elevation to no more than 199 feet, or the replacement of the WCF with a monopole-type support structure at such time as the wireless network has developed to the point that a height of 199 feet or less can be justified
- (D) *Monopoles preferred.* Each freestanding, non-concealed WCF shall utilize a monopole support structure or utility pole. Upon request of an applicant, the County may approve a different type of support structure if the applicant demonstrates to the satisfaction of the County through the submission of technical data that a monopole structure is not appropriate to accommodate the intended uses.
- (E) *Design for co-location.*
- (i) Each freestanding WCF up to 120 feet in height shall be engineered and constructed to accommodate no fewer than 3 co-located WCFs.
 - (ii) Each freestanding WCF that is 121 up to 150 feet in height shall be engineered and constructed to accommodate no fewer than 4 co-located WCFs.
 - (iii) Each freestanding WCF that is 151 or more feet in height shall be engineered and constructed to accommodate no fewer than 6 WCFs.
- (F) *Grading.* Grading shall be minimized and shall be limited to the area necessary for the new WCF and associated equipment compound and fencing.
- (G) *Lighting.* Lighting of a WCF shall comply with the following:
- (i) There shall be no lighting of any WCF except as specifically required by federal statute or FAA regulations
 - (ii) All FAA required lighting shall be of the minimum intensity and/or number of flashes per minute (i.e., the longest duration between flashes) allowable by the

FAA. In cases where residential uses are located within one-quarter mile of the WCF, then dual mode lighting⁽¹⁾ shall be requested from the FAA.

- (iii) Security lighting for ground-level accessory equipment shall be down-shielded and of a type and intensity consistent with generally accepted dark sky lighting standards.

(H) *Setbacks.* support structures and related accessory equipment shall comply with the following setback requirements:

- (i) If a freestanding support structure is to be constructed using breakpoint design technology, then the minimum setback shall be a distance equal to 110 percent of the distance from the highest point on the structure to the breakpoint level of the structure. Certification by an engineer of the breakpoint design and of the design's fall radius must be provided at the time of application, along with the other information required by this ordinance.
- (ii) If a freestanding support structure is not to be constructed using breakpoint design technology, then the minimum setback distance for any such structure ~~100 feet or greater in~~ more than 100 feet in height shall be equal to 110 percent of the height of the proposed support structure.
- (iii) The setback of any support structure from an abutting property may be reduced if an easement is obtained from the owner of the abutting property that restricts development within that portion of the fall zone which would extend onto the abutting property. Such fall zone easement shall be created by deed, acceptable to the county attorney, and it shall be recorded subsequent to County approval of any zoning applications and prior to the issuance of a building permit for the support structure. The setback of any support structure from the right-of-way for a public street may be reduced upon approval of VDOT and the County, without need for a fall zone easement.
- (iv) All other WCFs shall be subject to the setbacks of the underlying zoning district. However, if an existing building or structure that is nonconforming as to any setback will serve as the support structure for a proposed WCF, then the existing nonconforming setback shall apply.

(I) *Equipment cabinets and compounds.*

- (i) Equipment cabinets more than 3 feet in height shall not be visible from ground level. Cabinets may be located within a principal building, behind a screen on a rooftop, or on the ground within a fenced-in compound with landscape screening.
 - (ii) Where required, landscape screening shall consist of a 10-foot wide buffer planted with evergreen trees, minimum 2 inches caliper, 25-feet on center; evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least 5 feet, planted 5-feet on center, minimum 3-gallon or 24 inches tall at the time of planting; or a combination of both. Alternative landscape plans or materials may be approved by the County, upon a determination by the County that a reasonably equivalent level of screening will be achieved. Existing mature tree growth and natural land forms on the property containing a WCF site shall be preserved to the maximum extent possible, and may be used in lieu of the required landscape screening, in whole or in part, upon a determination that a reasonably equivalent level of screening will be achieved.
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- (iii) Equipment compounds shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed within a compound, and no compound may be utilized as habitable space.
- (J) *Fencing.* All freestanding support structures and associated equipment compounds shall be enclosed by a fence adequate to preclude unauthorized entry.
- (K) *Signs.* No signs shall be permitted on any WCF, other than the following:
 - (i) Signs required by the FAA or FCC shall be permitted;
 - (ii) Informational signs shall be permitted for the purpose of identifying the support structure (such as an ASR registration number), contact information for the party responsible for operation and maintenance of the facility, and contact information for the property manager (if applicable); and
 - (iii) Warning signs shall be permitted, if more than 220 volts are necessary for the operation of the facility and such voltage is present in a ground grid or in the antenna support structure. Any such signs shall be posted at 20-foot intervals on the fence or wall surrounding the facility and shall display in large, bold, high-contrast letters (minimum 4 inches in height) the words “DANGER—HIGH VOLTAGE”.
- (L) *Federal standards for interference protection.* Each WCF shall comply with all applicable federal laws and regulations regarding interference protection, including but not limited to federal regulations regarding adjacent channel receiver (blanket) overload and inter-modulation distortion. Each applicant seeking an approval required by this ordinance shall provide a written certification at the time of application that the subject WCF shall comply with such regulations.
- (M) *Federal standards for radio frequency emissions.* Each WCF shall comply with all applicable federal laws and regulations regarding radio frequency emissions. At the time of application, the applicant shall provide a certification that radio frequency emissions from the WCF comply with FCC standards, and that, individually and cumulatively, and together with any other facilities located on or immediately adjacent to the proposed WCF, the proposed WCF complies with FCC standards. The certification shall be accompanied by a statement of the qualifications of the person providing the certification.
- (N) *Compliance with ANSI standards.* Each WCF shall comply with American National Standards Institute (ANSI) standards, as adopted by the FCC, pertaining to electromagnetic radiation. Each applicant seeking an approval required by this ordinance shall provide a written certification at the time of application that the subject WCF shall comply with such standards.
- (O) *Safety.*
 - (i) Each WCF and its accessory equipment shall be constructed in compliance with requirements of the Virginia Uniform Statewide Building Code.
 - (ii) Any time an antenna is added to an existing WCF located on a support structure in excess of 100 feet, the owner or operator of the antenna shall provide the County with an engineer’s certification that the WCF can structurally accommodate the total number of antenna to be located on the WCF.

(P) *Sounds.* No unusual sound emissions, such as alarms, bells, buzzers, etc. are permitted.

(Q) *Abandonment.*

- (i) A WCF and its accessory equipment shall be removed, at the owner's expense, within 180 days of cessation of use, unless the abandonment is associated with a replacement support structure, in which case the removal shall occur within 90 days of cessation of use.
- (ii) A support structure which remains unoccupied by any antenna for a period of 180 consecutive days ("vacancy period") shall be removed within 60 days of the last day of the vacancy period, at the owner's expense.
- (iii) An owner who wishes to extend the time for removal shall submit an application stating the reason for the proposed extension. The Board may extend the time for removal or reactivation ~~up to 60 additional days~~ upon a showing of good cause. ~~If the WCF or vacant support structure is not removed within the extended time period, the County may give written notice that it will contract for removal of the WCF within 30 days following the notice. Thereafter, the County may cause removal of the WCF and the owner or corporate surety, if any, shall be responsible for payment of all costs incurred by the County to do so.~~
- (iv) ~~If the WCF or vacant support structure is not removed within the time period required by this subparagraph, the County may give written notice that it will contract for removal of the WCF within 30 days following the notice. Thereafter, the County may cause removal of the WCF and the owner or corporate surety, if any, shall be responsible for payment of all costs incurred by the County to do so~~
- (v) Upon removal of a WCF and its accessory equipment, the site shall be returned to its natural state and topography, and shall be vegetated consistent with the natural surroundings or the current uses of the surrounding or adjacent land at the time of the removal.
- (vi) ~~With respect to The owner of each freestanding WCF and its accessory equipment having a combined value of more than \$25,000: the owner of each such facility approved on or after _____, 2008 shall furnish to the County a performance bond in the sum of the cost of construction thereof, conditioned upon the faithful performance of the obligations of this section. Such bond shall be in a form and amount satisfactory to the County. Each bond shall be executed by one or more surety companies authorized to do business in Virginia. Upon a determination of the County attorney that the alternative form of security affords protection to the County equivalent to a corporate surety's bond, The County will allow the owner of a facility to furnish a cash escrow or a bank or savings institution's letter of credit on certain designated funds in the same amount required for a bond. Such bond or alternative security shall be maintained by the original principal until the County receives a replacement bond or alternative security from the principal's successor in interest.~~

14-13-7. New, freestanding WCF.

- (A) No new or mitigated freestanding WCF shall be permitted unless the applicant demonstrates that no existing WCF can accommodate the WCF facilities or is suitable, as to design or location.

- (B) In any R-1, R-2 or R-3 zoning district, new freestanding WCFs (other than those mounted on a utility pole) shall only be permitted on lots whose principal use is not single-family residential.

14-13-8. Mitigation of existing freestanding WCF.

- (A) An existing WCF may be modified in order to mitigate the impact of that facility. Mitigation must accomplish a minimum of one of the following objectives: (i) reduce the number of WCFs; (ii) reduce the number of nonconforming WCFs; or (iii) replace an existing WCF with a new WCF to improve network functionality resulting in compliance with this ordinance. No WCF shall be mitigated more than one time. Upon completion of mitigation, the owner of the mitigated WCF shall provide the County with evidence that at least one of the above-referenced objectives has been achieved.
- (B) The height of a mitigated WCF shall not exceed 115 percent of its original height ~~(for example: a 250-foot existing tower could be rebuilt at 287.5 feet).~~
- (C) A new WCF approved for mitigation of an existing WCF shall not be required to meet new setback standards, so long as the new WCF and its equipment compound are no closer to any property lines or dwelling units than the facility being mitigated.
- (D) Except as set forth within paragraphs (B) and (C), above, a mitigated WCF shall be brought into compliance with the requirements of 14-3-5.

14-13-9. Interference with public safety communications.

In order to facilitate the regulation, placement and construction of each WCF, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations and guidelines of the FCC, each owner of a WCF, and each applicant (if different than the owner) shall agree in a signed written statement to the following:

- (1) Compliance with “Good Engineering Practices” as defined by the FCC in its rules and regulations.
- (2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- (3) In the case of an application for co-located telecommunications facilities, best efforts will be made to provide a composite analysis of all users of the site, to determine that the proposed facility will not cause radio frequency interference with the County’s public safety communications equipment and will implement appropriate technical measures to attempt to prevent such interference.
- (4) Whenever the County encounters radio frequency interference with its public safety communications equipment, and it believes that the interference has been or is being caused by a WCF, then:
 - (i) The County will notify the WCF service provider of possible interference with the public safety communications equipment. Upon such notification, the owner shall utilize its best effort to cooperate and coordinate with the County and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety “Best

practices Guide” released by the FCC in February 2001, including the “Good Engineering Practices,” as such have been or may be amended or revised by the FCC from time to time.

- (ii) If the WCF owner fails to cooperate with the County in complying with its obligations under this subsection, or if the FCC makes a determination of radio frequency interference with the County’s public safety communications equipment, the owner who failed to cooperate or whose facility caused the interference shall be responsible for reimbursing the County for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the County to determine the source of the interference. For purposes of this subsection, failure to cooperate shall include failure to initiate any response or action described in the “Best Practices Guide” within 24 hours of the County’s notice.

14-13-10.Submission requirements.

For each proposed WCF, an applicant shall submit a completed application form and required application fees (as set forth on the most recent fee schedule approved by the Board along with a site plan containing or supported by the following information:

- (1) An affidavit by a radio frequency engineer certifying compliance with the alternatives hierarchy set forth in section 14-13-5. If a lower-ranking alternative is proposed, the affidavit must provide specific factual information explaining why higher-ranked options are not technically feasible, practical or justified
- (2) Evidence of the current ownership of the subject property
- (3) If the applicant is not the property owner, proof that the applicant is authorized to act upon the owner’s behalf.
- (4) All applicable certifications, assurances and written agreements required by this ordinance.
- (5) Proposed maximum height of the WCF, inclusive of the base, the antenna support structure, antennas and lightning rods.
- (6) Proposed exterior paint and stain samples for any components to be painted or stained.
- (7) GPS coordinates for the WCF.
- (8) Antenna mounting elevations and power levels of the proposed antenna, and all of the mounting elevations and power levels of any other WCF facilities located on the same site.
- (9) Materials detailing the locations of existing WCFs to which a proposed WCF will be a handoff candidate, including GPS coordinates, latitude, longitude and power levels of the proposed and existing antennas.
- (10) A radio frequency propagation plot, indicating the coverage of the applicant’s existing WCF sites, coverage prediction and design radius, together with a certification from the applicant’s radio frequency engineer that the proposed facility’s coverage or capacity potential cannot be achieved by any higher-ranked alternative; and
- (11) A map showing the designated search ring.

(B)The following information shall be provided, in addition to the requirements of subparagraph (A), above, for any WCF which requires approval of a special use permit:

- (1) ~~Seventeen (17)~~ Two sets (24” x 36”) of a site plan for the proposed WCF, signed and sealed by a surveyor or engineer licensed by the Commonwealth of Virginia, including antenna support structure elevations, plans for any landscaping an fencing required, plus

17 sets (11" x 17"). ~~Two (2) reduced copies (8.5" x 11") of a grading plan may be included on the site plan, or the grading plan may be separately submitted in equal quantities.~~ Each site plan shall also meet applicable requirements of the County's site plan ordinance.

- (2) One (1) original and 2 copies of a survey of the proposed WCF site, signed by a professional surveyor licensed in the Commonwealth of Virginia.
- (3) Photo-simulated post-construction renderings of the completed WCF, from locations to be determined during a pre-application conference with the zoning administrator.
- (4) A balloon test for any proposed freestanding WCF in excess of 100 feet, in order to demonstrate the height of the proposed WTF. The applicant shall arrange to raise a colored balloon, no less than 3 feet in diameter, at the maximum height of the proposed WTF and within 50 horizontal feet of the center of the proposed antenna support structure.
 - a. The applicant shall inform the zoning administrator and adjacent property owners in writing of the date and times of the test, at least 14 days in advance. The date, time and location of the balloon test shall be advertised in a locally distributed paper by the applicant, once per week for 2 weeks in advance of the test date. The balloon shall be flown for at least 4 consecutive hours during daylight hours on the date chosen. The applicant shall record the weather during the balloon test.
 - b. Re-advertisement will not be required if inclement weather occurs—the original advertisement should direct readers to an alternate date.
- (5) A report and supporting technical data demonstrating that all potentially usable elevated structures within the proposed service area, and alternative antenna configurations, have been examined and found unacceptable, for one of the following reasons::
 - a. No existing WCF in the geographic area meets the applicant's engineering requirements, and a written statement explaining in detail the requirements and the reason for this conclusion.
 - b. No existing WCF in the geographic area is of sufficient height to meet the applicant's engineering requirements or can be increased in height to meet those requirements, and a written statement explaining in detail the requirements and the reason for this conclusion.
 - c. No existing WCF in the geographic area has sufficient structural integrity to support the applicant's proposed WCF or can be sufficiently improved to provide such support, and a written statement identifying the specific WCFs that were investigated and the reasons for this conclusion.
 - d. Other limiting factors render other existing WCFs in the geographic area unsuitable, and a written statement explaining in detail the reasons for this conclusion.
- (6) A written statement, supported by technical data identifying any existing service gap that will be addressed by the proposed WCF, and accompanying maps and calculations, or other data demonstrating the service gap. For the purpose of this paragraph, the term "service gap" means a defined geographic area in which there is a demonstrable, consistent absence of any signal.
- (7) ~~A vicinity map delineating the location and classification of all major public or private streets and rights of way, driveways, public parking areas, pedestrian ways, trails and bikeways within 500 feet of the site of the proposed WCF including zoning district boundaries, on a 24" x 36" sheet, together with a list of property owners within 1,000 feet in agriculturally zoned, and 500 feet in all other districts, of the subject property. The list~~

must be compiled from the most current ownership information supplied by the commissioner of revenue's office.

- (8) A written statement that the proposed WCF meets the alternatives hierarchy. In the event that the proposed WCF is of a lower degree of preference than a concealed freestanding WCF the applicant shall demonstrate that concealment technology is unsuitable for the proposed facility. Cost of concealment technology that exceed facility development costs of the proposed WCF shall not be presumed to render the technology unsuitable.
- (9) A written statement provided by a professional engineer licensed by the Commonwealth of Virginia, specifying the design structural failure modes of the proposed WCF.
- (10) Identification of the intended service providers who will operate the WCF.
- (11) Proof of approval by the Virginia Department of Historic Resources, State Historic Protection and Preservation Office, or a certification that no such approval is required.
- (12) A copy of any material submitted to the U.S. Fish and Wildlife Service, or a certification that no submission to the FWS is required for the proposed facility.
- (13) A pre-application conference will be required for a new freestanding WCF. The applicant shall demonstrate that the following notice was mailed by certified mail to all other wireless service providers licensed to provide service within the County: *"Pursuant to the requirements of the Madison County Zoning ordinance, we are hereby providing you with notice of our intent to meet with County staff in a pre-application conference to discuss the location of a free-standing wireless communication facility that would be located at ____ (insert physical address, latitude and longitude (NAD-83)). In general, we plan to construct an antenna support structure ____ (insert number) feet in height for the purpose of providing (insert type of wireless service). Please inform County staff if you have any desire for placing additional WCF or equipment within 2 miles of our proposed facility. Please provide us with this information within 20 business days after the date of this letter."*
- (C) The following shall be provided *in lieu of* the requirements set forth in subsection (A), above, for any replacement of an existing antenna or support structure:
 - (1) A written statement setting forth the reasons for the replacement.
 - (2) A signed statement from a qualified professional, together with a statement of his qualifications, certifying that the radio frequency emissions from the WCF meet FCC standards for such emissions and that, both individually and cumulatively, and with any other facilities located on or immediately adjacent to the WCF, the replacement antenna complies with FCC standards.
 - (3) A structural analysis of the existing WCF prepared by an engineer licensed by the Commonwealth of Virginia, indicating that the existing or replacement support structure, and all existing and proposed attachments thereto, meet Virginia Uniform Statewide Building Code requirements (including wind loading).

14-13-11. Relation to Other Zoning Regulations.

(A) *Principal or accessory use.* WCFs may be considered either principal or accessory uses. An existing structure or existing use already established on the same lot shall not preclude the installation of a WCF on such lot.

(B) *Relation to other zoning district regulations.* For purposes of determining whether the installation of a WCF complies with zoning district regulations, ~~including but not limited to setback and lot coverage requirements~~, the dimensions of the entire lot shall control, even though the WCF may be located on leased areas within such lots. In the event of a conflict between any requirements of this section and the requirements of a particular zoning district, the more restrictive requirements shall govern; however, the height limitations and setbacks applicable to buildings and structures within each zoning district shall not apply to WCFs.

14-13-12.Non-conforming uses.

(A) *Impact of installation on non-conforming uses.* A WCF that is constructed or installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure, other than a nonconforming WCF.

(B) Existing WCFs may continue in use for the purpose now used, but may not be expanded or replaced without complying with this ordinance, except as further provided in this section.

(C) Existing WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions (subject to obtaining a building permit) but shall be required to meet the requirements of sections 14-3-5 (L), (M), (N), (O), (P) and (Q) of this ordinance.

(D) The owner of any existing telecommunications facility may replace, repair, rebuild and/or expand such telecommunications facility to accommodate co-located antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards (subject to obtaining a building permit) without having to conform to provisions other than sections 14-3-5 (L), (M), (N), (O), (P) and (Q) of this ordinance.

14-13-13.Definitions.

“Accessory equipment” means any equipment serving or being used in conjunction with a WCF. This equipment includes, but is not limited to, utility and transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters and other structures.

“Antenna” means any structure or device used for telephonic, cellular, data, radio, or television communication through the sending and/or receiving of electromagnetic waves. Such structures and devices include, but are not limited to, directional antennas (such as panels, microwave dishes and satellite dishes) and omni-directional antennas (such as whips), and antenna arrays.

“Board” means the Board of Supervisors of Madison County, Virginia.

“Breakpoint technology” means the engineering design of a monopole such that a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point along the monopole, and in the event of a structural failure of the monopole the failure will occur at the breakpoint rather than at the base plate, anchor bolts or any other point on the monopole.

“*County*” means the County of Madison, Virginia, a political subdivision of the Commonwealth of Virginia and, in appropriate context, to the governing Board, its officials, officers and employees.

“*Engineer*” means an engineer licensed within the Commonwealth of Virginia.

“*Existing WCF*” means any WCF that was placed, built, erected, or for which a special use permit had been approved by the Board on or before X, 200X

“*FAA*” means the Federal Aviation Administration.

“*FCC*” means the Federal Communications Commission.

“*Fall zone*” means the area surrounding a support structure centered upon the support structure and encompassed within a radius equal to 110 percent of the total height of the support structure.

“*Handoff candidate*” means a WCF that receives call transference from another WCF, usually located in an adjacent first “tier” surrounding the initial WCF.

“*Mitigation*” means a modification of an existing support structure in order to bring the structure into compliance with the requirements of this ordinance, to improve aesthetics, or to improve the functionality of the overall wireless network of which the facilities located on the support structure are a part.

“*Monopole*” means a structure to support antennas and related wireless equipment consisting of a single self-supporting pole, constructed without any external bracing, guy wires or similar attachments.

“*Support structure*” means a freestanding, guyed or self-supporting structure designed to support telecommunications facilities, including but not limited to lattice-type towers, monopoles and utility poles.

“*Utility pole*” means a wooden pole, 100 feet or less ~~than 100 feet~~ in height, of the type typically utilized by telephone and electric utility companies.

“*WCF*” means a wireless communications facility, and refers to any manned or unmanned facility established for the purpose of providing wireless transmission and/or reception of voice, data, images or other information, including, but not limited to cellular telephone service, personal communications service (PCS) and paging service. A WCF usually consists, collectively, of an antenna, a support structure, and accessory equipment. However, as used in this ordinance “WCF” may refer, in appropriate context to an individual antenna and its accessory equipment. and facilities used for non-commercial access to communications services, installed at a consumer’s location.

“*Attached WCF*” means a WCF that is secured to an existing building or structure. An attached WCF shall be considered to be an accessory use to the existing principal use on a site.

“*Co-located WCF*” means any one of multiple WCFs operated by multiple carriers, service providers or licensees on a shared support structure.

“Concealed WCF” means a WCF that is hidden or camouflaged so that it is not readily identifiable as such, and that is designed to be aesthetically compatible with the surrounding natural environment and/or existing and proposed buildings and uses on a site. Examples of a concealed WCF include: man-made trees, silos, clock towers, steeples and bell towers, street light poles, and similar alternative mounting structures.

“Freestanding WCF” means a WCF utilizing a support structure.

AND BE IT FURTHER ORDAINED THAT this ordinance shall take effect upon its adoption and shall apply to all WFCs that have not been finally approved prior to that date.

ADOPTED this 4th day of February, 2009 by the Board of Supervisors of Madison County, Virginia, on motion of William L. Crigler, seconded by Clark Powers.

	<hr/> Eddie Dean, Chairman			
	Aye	Nay	Abstain	Absent
Eddie Dean	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
James L. Arrington	<u> </u>	<u> </u>	<u> x </u>	<u> </u>
William L. Crigler	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Bob Miller	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Clark Powers	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

Attest:

Lisa A. Robertson, County Administrator
Clerk to the Madison County Board of Supervisors

Chairman, Eddie Dean stated that he has been in discussion with William L. Crigler, Board member and Lisa Robertson, County Administrator, with members of the Madison County Volunteer Rescue Squad regarding an Ambulance Agreement; he also stated that a copy of said agreement is being provided to all Board members tonight to review changes that have been discussed; the Volunteers are very much in support of the revised agreement.

Chairman, Eddie Dean also advised that Steve Grayson of the Madison Volunteer Rescue Squad was present and asked if he'd like to provide any comments; he also suggested the Board discuss this agreement at the upcoming Regular Meeting.

Steve Grayson advised there has been a great deal of time/effort applied into the completion of the Ambulance Agreement; modifications have been incorporated and tonight's agreement is endorsed by the Madison County Volunteer Rescue Squad.

Chairman, Eddie Dean stated the real need for this agreement is for the County to start charging for emergency transportation; a lease agreement will need to be in place in order for the County to apply for a Medicare provider number and that can take six (6) to eight (8) months – once the County has been awarded a number, the County will probably be an additional six (6) months away from moving forward with the aforementioned plans.

Chairman, Eddie Dean stated this is probably the first exposure for most; however, it is the intention of the Board to provide an update as to what the County's position is regarding the issue.

Lisa Robertson, County Administrator, stated that a Memorandum of Understanding has been in place between Madison County and the Madison County Volunteer Rescue Squad for quite some time that denotes operational procedures; however, the time has come to update the agreement to include a broader range of options and is in commemoration with the existing procedures as provided within Madison County.

With no further action being required by the Board, on motion of William L. Crigler, seconded by Clark Powers, Chairman, Eddie Dean adjourned the meeting, with the following vote recorded:

Eddie Dean	Aye
James L. Arrington	Aye
William L. Crigler	Aye
Bob Miller	Aye
Clark Powers	Aye

Date: February 5, 2009